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SUBSTITUTE  
DECISIONS ACT

# Power of Attorney for Personal Care

(Made in accordance with the Substitute Decisions Act, 1992)

**T**he *Substitute Decisions Act* allows you to appoint someone you trust, in advance, to make decisions for you if you become mentally incapable. You may use this form to give a person of your choice the authority to make decisions about your **PERSONAL CARE** should you become mentally incapable. Decisions about personal care involve things such as where you live, what you eat, and the kind of medical treatment you receive. The person you appoint is called your "attorney for personal care." You may appoint more than one attorney if you wish.

You may give your attorney **special instructions** about the particular kind of care you want — or don't want — in certain situations. If you wish to give instructions, there is a space on the form where you can write them down.

Remember, you are not required to appoint an attorney for personal care. This is **your** choice. Giving a power of attorney is a very serious matter. Your attorney may become responsible for profoundly important decisions about your well-being and quality of life. If you decide to appoint an attorney for personal care, it is important that you do so of your own free will, without pressure from anyone else.

Before you decide, you may want to talk with your family or close friends. Although you are not required to consult a lawyer in order to make a legally binding power of attorney, it is a good idea to do so. Consulting with other expert advisors is also a good idea, providing they are impartial and concerned only with your best interests.

This document includes guidelines designed to help you complete this power of attorney. The guidelines also point out some of the reasons why you may or may not wish to make certain choices. But remember, all decisions are up to you.

Your power of attorney for personal care is not legally binding until the *Substitute Decisions Act* comes into effect, planned for early 1995. However, if you give instructions about your health care, they may be recognized under existing law.

This is not the only form you can use to make your power of attorney for personal care. If you wish, you may use another form or make your own, but if you do this, make sure that it meets the legal requirements of the *Substitute Decisions Act, 1992*.



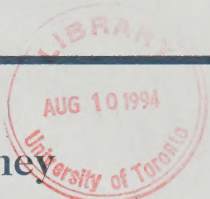
Ministry of the Attorney General  
Office of the Public Trustee

145 Queen Street West  
Toronto, Ontario, Canada  
M5H 2N8

Ce document, intitulé «Procuration relative au soin de la personne», est également disponible en français. Pour en obtenir un exemplaire, veuillez écrire à l'adresse suivante:

Projet de la prise de décisions au nom d'autrui  
Bureau du Curateur public, Ministère du Procureur général  
145, rue Queen ouest, 6<sup>e</sup> étage, Toronto (Ontario) M5H 2N8





## Part 1:

# Appointing Your Attorney

- Read this part carefully before you complete this form.
- To appoint an attorney for personal care, you must be 16 years of age or more and have the mental ability to know whether your attorney truly cares about you and that he or she may make personal care decisions for you if necessary.
- Decide who you want to appoint as your attorney for personal care — a family member or close friend, for example. (The word “attorney” does *not* mean “lawyer.”)
- **The person you appoint should be someone you know very well and whom you trust completely with your personal decisions.**
- Talk to that person and make sure that he or she is willing to be your attorney.
- The person you appoint must be 16 years of age or more.
- If there is more than one person you want involved in your personal care decisions, you may wish to consider appointing more than one attorney. On the other hand, you may decide **not** to name more than one attorney if you are concerned about the possibility of disagreements or if you believe that it would be too difficult for your caregivers to deal with more than one person.
- You are allowed to appoint different people for different categories of decision-making. For example, you could appoint one person to make your health care decisions and someone else to make your other personal decisions (e.g., housing, food). If you do this, write the name of each person and the category of personal care decisions (e.g., housing, nutrition, health, safety, hygiene or clothing) to which they are restricted in **Part 5** of the form.
- By law, this power of attorney revokes (cancels) any previous power of attorney for personal care you may have made (unless the power of attorney has been “validated” — a process which may take place to confirm incapacity after the *Substitute Decisions Act* is proclaimed).
- Once you have decided who you want to appoint as your attorney(s), write your name and the attorney’s name in the space provided.

### **CERTAIN PEOPLE ARE NOT ALLOWED TO BE YOUR ATTORNEY.**

Do not appoint anyone who provides you with “health care or residential, social, training, advocacy, or support services for compensation” unless that person is also your spouse, partner, or relative.

For example, do not name any of the following people if they are paid (by you or someone else) to provide services to you *unless* that person is also related to you or is your spouse or partner:

- your landlord
- any person who provides care for you in the place where you live
- your social worker, counsellor, teacher, or advocate
- your doctor, nurse, therapist, or other health care provider
- your homemaker or attendant
- You can name more than one person to be your attorney for personal care. You are not required to do so.

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**“Spouse” includes a “common-law” spouse.**

**“Partners” means two people who have lived together for at least one year and who have a close relationship which is of primary importance in both their lives.**

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*These guidelines are provided solely to assist you in completing this form. They do not cover every option available in the Substitute Decisions Act, 1992. They are not legal advice. Some legal terminology from the statute has been described in simpler words to make it easier to understand.*



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## Part 2: Joint or Separate Attorneys

(Fill in this part **only** if you have named more than one attorney *and* you want your attorneys to be able to make decisions separately, that is, without having to act together).

If you have appointed more than one attorney in this form, *the law will require them to make each decision together unless you specifically give them permission to act separately*. You can give permission to act separately by writing it down in this part of the form. If you don't do this, your attorneys will be required to act together all the time.

There are some good reasons for giving your attorneys the flexibility to make decisions separately. Think, for example, about what would happen if one of your attorneys were temporarily unavailable because of sickness, vacation, or some other reason. If your attorneys are allowed to act separately, this will not be a problem.

On the other hand, you may decide **not** to give this permission if you want to ensure that there is **always** a "double-check" that the decision is the right one. You may also wish to avoid the risk of inconsistent decisions that may occur as a result of attorneys acting separately.

You decide. If you have named more than one attorney *and* you want them to be authorized to make decisions separately from one another, write the words "jointly and severally" in the space provided in **Part 2**. ("Jointly and severally" is a legal term which means "together and separately.")

## Part 3: Substitute Attorney

(This part is **OPTIONAL**.)

Your appointed attorney may not be willing or able to act on your behalf when the time comes. Or something may happen after your attorney has begun to make decisions on your behalf that prevents him or her from continuing to act for you. In either case, you could be left with no one to make important decisions about your care. *So you may wish to consider naming a substitute attorney*.

This is especially important if you have named only one attorney. If you have named more than one attorney, there is less reason to be concerned because the remaining attorney can usually carry on if something happens to the other. You may still want to name a substitute, however, to replace the one who cannot act. There is no guarantee that something will not happen to your remaining attorney. Or you may feel strongly that there should always be more than one person involved in your decision-making.

Your substitute attorney will have the same authority and powers as the attorney he or she replaces.

If you decide to appoint a substitute attorney, you should think carefully about who to appoint. The restrictions on who is allowed to be your attorney, described in **Part 1**, apply to your substitute.

To name a substitute attorney, complete **Part 3**.

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## Part 4:

### Authority of Attorney(s)

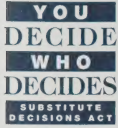
This part of the form is very important. It tells your attorney, and your caregivers, the categories of personal care that your attorney is allowed to make decisions about if you become mentally incapable.

This part gives your attorney(s) the authority to make decisions about **any** category of personal care for which you are mentally incapable. This may include decisions about your health care, housing, safety, hygiene, clothing and nutrition. Your attorney will have first right to give or refuse consent to your medical treatment if you cannot do so.

It is important to understand that no matter what authority is given to your attorney in this document, he or she is only allowed to make decisions about those aspects of your personal care that you cannot make yourself. For example, if you become mentally incapable of making decisions about health care but can still make decisions about other personal care matters, such as housing or safety, you would still have the right to make your own decisions in these areas.

Although you may limit your attorney(s) to only specific categories of personal care (e.g., health care, shelter, nutrition, clothing, safety and hygiene) by writing restrictions in **Part 5**, think carefully before you do so. If you become incapable of making decisions in a particular area and your attorney does **not** have authority to decide for you, it may be necessary for the Court to appoint a guardian.

Remember, this form does **NOT** allow decisions to be made about your property or finances. If you want to appoint an attorney for your financial decisions you can make a separate document called a "Continuing Power of Attorney for Property."



# Power of Attorney for Personal Care

(Made in accordance with the Substitute Decisions Act, 1992)

1. I, \_\_\_\_\_ revoke any previous power of attorney for  
(Print or type your full name here.)

personal care made by me and APPOINT: \_\_\_\_\_

\_\_\_\_\_  
(Print or type the name of the person or persons you appoint here.)

to be my attorney(s) for personal care in accordance with the *Substitute Decisions Act, 1992*.

[Note: A person who provides health care, residential, social, training, advocacy, or support services to the person giving this power of attorney for compensation may not act as his or her attorney unless that person is also his or her spouse, partner, or relative.]

2. If you have named more than one attorney and you want them to have the authority to act separately, insert the words "jointly and severally" here:

\_\_\_\_\_  
(This may be left blank.)

3. If the person(s) I have appointed, or any one of them, cannot or will not be my attorney because of refusal, resignation, death, mental incapacity, or removal by the court, I SUBSTITUTE:

\_\_\_\_\_  
(This may be left blank.) to act as my attorney for personal care in the same manner and subject to the same authority as the person he or she is replacing.

4. I give my attorney(s) the **AUTHORITY** to make **any** personal care decision for me that I am mentally incapable of making for myself, including the giving or refusing of consent to treatment to which the *Consent to Treatment Act, 1992*, applies, subject to the *Substitute Decisions Act, 1992*, and any instructions, conditions or restrictions contained in this form.



## 5. INSTRUCTIONS, CONDITIONS AND RESTRICTIONS

Attach, sign, and date additional pages if required. (This part may be left blank.)

[illegible]

## 6. SIGNATURE:

DATE: \_\_\_\_\_

*(Sign your name here, in the presence of two witnesses.)*

## 7. WITNESS STATEMENT AND SIGNATURE

[Note: The following people cannot be witnesses: the attorney or his or her spouse or partner; the spouse, partner, or child of the person making the document, or someone that the person treats as his or her child; a person whose property is under guardianship or who has a guardian of the person; a person under the age of 18].

We have no reason to believe that the grantor is incapable of giving a power of attorney for personal care or making decisions in respect of which instructions are contained in this power of attorney. We have signed this power of attorney in the presence of the person whose name appears above and in the presence of each other.

Witness #1: *Signature:* \_\_\_\_\_ *Print Name:* \_\_\_\_\_  
*Address:* \_\_\_\_\_ *Date:* \_\_\_\_\_

Witness #2: *Signature:* \_\_\_\_\_ *Print Name:* \_\_\_\_\_  
*Address:* \_\_\_\_\_ *Date:* \_\_\_\_\_

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## Part 5:

# Instructions, Conditions and Restrictions

(This part is OPTIONAL.)

You may, if you wish, give your attorney(s) instructions about specific decisions that you want to have made in certain circumstances. This is different from saying what areas of authority your attorney has. You have already done this in **Part 4**.

*Giving instructions* means telling your attorney what decision to make in a *particular situation*. For example, you have given your attorney the right to make decisions about where you live but you may want your attorney to keep you in your own home as long as possible. Or you may want to ensure that your attorney observes your religious beliefs when deciding about your food.

You can be very specific in your instructions or give your attorney general guidelines to follow when making decisions.

The most common type of instruction is about health care. You may be familiar with the idea of a “living will” in which a person may decline certain treatment, such as artificial life supports, in the event of a terminal illness. This is **one** type of instruction that you can make. But remember, you can give instructions about *any* category of personal care in which your attorney has decision-making authority.

If you wish to give your attorney instructions, here are some things you may want to consider doing:

- Put your instructions in words your attorney(s) can understand.
- If you give specific instructions, be very clear as to the type of situation in which the instruction must be followed.
- Be realistic in your choices.
- Talk to your attorney(s) about your instructions to make sure that he or she really understands what you are saying. It is helpful if you explain the values and beliefs which underlie your instructions.

- If you decide to give instructions about health care, talk to your health care provider about your current health and the kind of medical treatment you might face in the future. Be aware that medical language can be very specific, so make sure that what you write actually expresses what you want to say.

Some organizations and individuals offer very detailed forms in which you can record your choices about medical treatment; if you have already completed such a form you may wish to attach it to this power of attorney. If you do attach such a document, it would be wise to say, in this part of the form, what the document is and the date it was signed. Initialling each page of the document you attach is also a good idea.

The law requires that your instructions must be followed by your attorney unless it is impossible for him or her to do so. (For example, your attorney cannot be required to do something which is against the law.)

But remember, this section is optional. You may choose not to write any instructions to your attorney *in this form*. It's up to you. Your attorney must still follow any *other* instructions or wishes you may express about your care while you are capable of making such choices. But you should be sure to communicate these wishes to your attorney!

If you do not provide any instructions, your attorney(s) must make decisions according to what he or she believes is in your best interest at the time.

You may also place conditions or restrictions on your attorney's authority. For example, you might want your attorney to consult with specific people (such as family members or your religious advisor) before decisions are made. If you have named more than one attorney, you may want to specify whose decision will be followed if there is a disagreement, or you may restrict the category of personal care decisions that each attorney can make.